

AMENDED IN SENATE JUNE 6, 2002

AMENDED IN SENATE MAY 29, 2002

AMENDED IN ASSEMBLY APRIL 29, 2002

AMENDED IN ASSEMBLY APRIL 18, 2002

AMENDED IN ASSEMBLY APRIL 11, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2511

Introduced by Assembly Member Dutra

February 21, 2002

An act to add Division 3.5 (commencing with Section 7000) to the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2511, as amended, Dutra. Public utilities: *Santa Clara Valley Transportation Authority*: relocation.

Under existing law, certain transit districts may exercise the right of eminent domain to take any property necessary or convenient to the exercise of their powers. Under existing law, the transit district when exercising this power is, in addition to the damage for the taking, injury, or destruction of property, also required to pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public utility which is required to be moved to a new location.

This bill would ~~require~~ *authorize* a relocation agreement between certain utilities, cable television corporations, or cable operators and

~~public entities, as defined the Santa Clara Valley Transportation Authority, entered into in connection with a transit or transportation capital improvement project, to contain certain elements, and would provide that, if a utility, cable television corporation, or cable operator abandons utility relocation work under a relocation agreement, the public entity authority may, pursuant to the terms of the relocation agreement, assume from the utility, cable television corporation, or cable operator the work of relocating related utilities. The bill would provide that the rights and remedies available to a public entity the authority under the bill are nonexclusive and are cumulative of remedies available under other laws or pursuant to contract. The bill would authorize a public entity, to provide funding for utility relocation work in accordance with a utility relocation agreement require that for the provisions of this act to apply, certain conditions must have occurred related to a formal, written utility relocation agreement.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) For many transportation capital improvement projects, it is
- 4 necessary for utilities to be moved and relocated in advance of
- 5 construction.
- 6 (b) If utility relocation work cannot be performed
- 7 expeditiously, or cannot be completed at all by the appropriate
- 8 utility, cable television corporation, or cable operator, the result is
- 9 significant costs to the public because construction work for these
- 10 projects is delayed.
- 11 (c) *For public transit capital improvement projects, delays*
- 12 *resulting from utility relocation work not being done in a timely*
- 13 *manner can cost between five hundred thousand dollars*
- 14 *(\$500,000) and one million dollars (\$1,000,000) per month.*
- 15 (d) It is in the best interest of the state that utility relocation
- 16 work on transportation capital improvement projects be
- 17 completed expeditiously, whether by a utility, cable television
- 18 corporation, or cable operator or a public entity, as set forth in an
- 19 executed utility relocation agreement, to avoid unnecessary costs
- 20 and delays in completing these vital projects.

(e) If a utility, cable television corporation, or cable operator decides, for financial or other reasons, not to perform utility relocation work for a transit or transportation capital improvement project pursuant to the terms of an executed utility relocation agreement, in many cases, the only recourse for a public entity is to initiate a potentially lengthy court process to force the utility, cable television corporation, or cable operator to perform the work. This situation could result in significant delays and cost increases to a transit or transportation capital improvement project.

(f) It is the intent of the Legislature in enacting the act adding this section to authorize the Santa Clara Valley Transportation Authority, when implementing a transit or transportation capital improvement project, to assume utility relocation work from a utility, cable television company, or cable operator, but only when the following occurs:

(1) The Santa Clara Valley Transportation Authority has executed a formal, written utility relocation agreement with the utility, cable television corporation, or cable operator.

(2) The utility, cable television corporation, or cable operator refuses to move its utilities or abandons the relocation work in violation of the relocation agreement, because of financial hardship or other reasons.

(3) The utility relocation agreement executed by the Santa Clara Valley Transportation Authority and the utility, cable television corporation, or cable operator allows for the authority to assume the utility relocation work as recourse for the work being abandoned by the utility, cable television corporation, or cable operator.

SEC. 2. Division 3.5 (commencing with Section 7000) is added to the Public Utilities Code, to read:

DIVISION 3.5. UTILITY RELOCATION AGREEMENTS

CHAPTER 1. RELOCATION FOR TRANSIT OR TRANSPORTATION CAPITAL IMPROVEMENT PROJECTS

7000. (a) For purposes of this chapter, a utility shall mean all of the following:

(1) An electric corporation, as defined in Section 218.

(2) A water corporation, as defined in Section 241.

(3) A telephone corporation, as defined in Section 234.

(4) A telecommunications carrier, as defined in Section 153 of Title 47 of the United States Code.

(5) A gas corporation, as defined in Section 222.

(6) A local publicly owned electric utility, as defined in Section 9604, and a publicly owned gas utility.

(7) a special district that owns or operates utilities.

(b) This chapter shall also apply to the following entities:

(1) A cable television corporation, as defined in Section 215.5.

(2) A cable operator, as defined in Section 522 of Title 47 of the United States Code.

7001. For purposes of this chapter, ~~a public entity is defined as a city, county, city and county, special district, state agency, joint powers authority, transportation agency, or transportation authority.~~ *“authority” means the Santa Clara Valley Transportation Authority, as defined in Section 100011.*

7002. When a utility enters into a relocation agreement with ~~a public entity~~ *the authority* in connection with a transit or transportation capital improvement project, the agreement may include, but not be limited to, the following elements, as agreed to by the parties:

(a) Location of the work to be completed.

(b) Cost arrangements between the parties for the work to be conducted.

(c) Schedule for the work to be completed.

(d) Remedies for contract impairment.

(e) Definition of default on the part of either party.

(f) Remedies for default by either party.

(g) What constitutes abandonment of utility relocation work, and remedies for addressing any abandonment.

7003. (a) If a utility, cable television corporation, or cable operator abandons utility relocation work under a relocation agreement with ~~a public entity~~ *the authority* in connection with a transit or transportation capital improvement project, the ~~public entity~~ *authority* may, pursuant to the terms of the relocation agreement made pursuant to subdivision (g) of Section 7002, assume from the utility, cable television corporation, or cable operator the work of relocating utilities that relates to the project within the jurisdiction of the ~~public entity~~ *authority*.

1 (b) (1) ~~A public entity~~ The authority may issue contracts with
2 another qualified entity to conduct the utility relocation work.

3 (2) ~~The~~ If a collective bargaining agreement specifically does
4 not prohibit a crew or other subgroup of employees of a utility,
5 cable television corporation, or cable operator from performing
6 utility relocation work under a contract with the authority in the
7 case where work has been abandoned by the utility, cable
8 television corporation, or cable operator, then the utility, cable
9 television corporation, or cable operator shall offer a first right of
10 refusal to a crew or other subgroup of its own employees that are
11 qualified to conduct utility relocation work to contract with the
12 ~~public entity~~ authority for the utility relocation work.

13 (3) If the crew or subgroup identified in paragraph (2) elects not
14 to contract with the ~~public entity~~ authority to conduct the utility
15 relocation work, the ~~public entity~~ authority shall choose a
16 qualified entity from a list provided by the utility, cable television
17 corporation, or cable operator if the utility, cable television
18 corporation, or cable operator chooses to provide a list.

19 (c) Any utility relocation work performed or caused to be
20 performed by the ~~public entity~~ authority shall be done according
21 to industry standards, under the oversight of the utility, cable
22 television corporation, or cable operator, and upon acceptance by
23 the utility, cable television corporation, or cable operator.

24 7004. The rights and remedies available to a ~~public entity~~ the
25 authority under this article are nonexclusive and are cumulative to
26 each other and to the remedies or penalties available to the ~~public~~
27 ~~entity~~ authority under all other laws or pursuant to contract.

28 ~~7005. A public entity, as defined in Section 7001, may~~
29 ~~provide funding for utility relocation work in accordance with an~~
30 ~~executed utility relocation agreement made pursuant to Section~~
31 ~~7002.~~

32 7005. This chapter applies only if all of the following occurs:

33 (a) The authority has executed a formal, written utility
34 relocation agreement with the utility, cable television corporation,
35 or cable operator.

36 (b) The utility, cable television corporation, or cable operator
37 abandons the relocation work because of financial hardship or
38 other reasons.

39 (c) The utility relocation agreement executed by the authority
40 and the utility, cable television corporation, or cable operator

1 *allows for the authority to assume the utility relocation work as*
2 *recourse for the work being abandoned by the utility, cable*
3 *television corporation, or cable operator.*

4 *SEC. 3. The Legislature finds and declares that, because of the*
5 *unique circumstances applicable only to the Santa Clara Valley*
6 *Transportation Authority, a statute of general applicability cannot*
7 *be enacted within the meaning of subdivision (b) of Section 16 of*
8 *Article IV of the California Constitution. Therefore, this special*
9 *statute is necessary.*

